Docket No.: 511582002800

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

re Patent Application of:
Arthur B. RAITANO et al.

Application No.: 09/942,052   Art Unit: 1642

Filed: August 28, 2001   Examiner: D. Blanchard

For: NUCLEIC ACIDS AND CORRESPONDING
     PROTEIN ENTITLED 85P1B3 USEFUL IN
     TREATMENT AND DETECTION OF
     CANCER

PETITION UNDER RULE 1.47(a)

MS RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to 37 CFR 1.47(a) and MPEP 409.03, assignee and real-party-in-interest, Agensys, Inc. and co-inventors Arthur B. RAITANO, Rene S. HUBERT, Daniel AFAR, Wagmao GE, Pia M. CHALLITA-EID and Aya JAKOBOVITS respectfully state that co-inventor Mary FARIS refuses to join the application for patent, and requests that this application be accepted for examination and that the attached declaration be accepted without the signature of one of the co-inventors, Mary FARIS.

The pending claims and Declaration under 37 C.F.R. § 1.131 were presented to Mary FARIS for review and execution. Inventor FARIS refused to execute the papers. Below is a brief description of attempts made to contact Mary Faris regarding the Declaration.

03/22/2005 YPOLITE1 00000072 031952   09942052
01 FC:1463   200.00 DA

1

sd-249882
03/22/2005 YPOLITE1 00000040 031952   09942053
01 FC:1463   200.00 DA

1. On January 18, 2005 a telephone message was left at Mary Faris's residence regarding the Declaration and pending claims sent to her via UPS on December 13, 2004 (copy attached as Exhibit A). She was also requested to return the call. UPS on-line tracking details indicates that this package was delivered on December 14, 2004 (copy attached as Exhibit B).

2. On January 18, 2005, a second copy of the package previously sent on December 13, 2004 was sent via U.S. first-class mail.

3. On January 24, 2005, a second attempt to contact inventor FARIS via telephone was made. Because no one answered, a message was left requesting inventor FARIS to return the call.

4. On January 26, 2005, a third attempt to contact inventor FARIS via telephone was made. Again, no one answered and another message was left requesting inventor FARIS to return the call.

5. On February 7, 2005, a fourth telephonic attempt to contact inventor FARIS was made. Again, no one answered and a fourth message was left requesting inventor FARIS to return the call.

6. On February 9, 2005, a third copy of the package, which enclosed the Declaration and pending claims, prevsioualy sent on December 13, 2004 via UPS and January 18, 2005 via U.S. first-class mail, was sent via U.S. Certified Mail to inventor FARIS.

7. On February 18, 2005, a telephonic message was left requesting inventor FARIS to confirm receipt of the Certified Mail.

8. On March 3, 2005, the Declaration and pending claims were sent to inventor FARIS via electronic mail. On March 11, 2005, a follow-up e-mail was sent (copies are attached as Exhibit C).

sd-249882

In addition, attached as Exhibit D is a copy of the Assignment signed by all inventors including Mary FARIS and recorded with the USPTO. Attached as Exhibit E, is a copy of the original Declaration as it was filed and signed by all inventors including Mary FARIS.

Mary FARIS' last known residential address, and telephone and e-mail address is:

2538 Almaden Court
Los Angeles, California 90077
Residence telephone: (310) 859-8509
E-mail: mfarisv@yahoo.com

This also is believed to be her current residential address, telephone number, and e-mail address.

Kindly accept this petition under 1.47(a), and issue a notice of same.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket No. 511582002800. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.
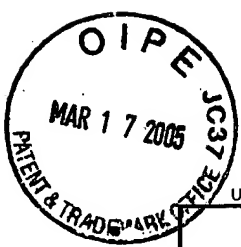
Dated: March 17, 2005

Respectfully submitted,

By
James J. Mullen III, Ph.D.
Registration No.: 44,957
MORRISON & FOERSTER LLP
3811 Valley Centre Drive, Suite 500
San Diego, California 92130
(858) 720-7490

3

sd-249882

PETITION FEE
Under 37 CFR 1.17(f), (g) & (h)
TRANSMITTAL
· (Fees are subject to annual revision)

Send completed form to:
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	09/942,052
Filing Date	August 28, 2001
First Named Inventor	Arthur B. RAITANO
Art Unit	1642
Examiner Name	D. Blanchard
Attorney Docket Number	511582002800

Enclosed is a petition filed under 37 CFR ___1.47(a)___ that requires a processing fee (37 CFR 1.17(f)), (g), or (h)). Payment of $ __200.00__ is enclosed.

This form should be included with the above-mentioned petition and faxed or mailed to the Office using the appropriate Mail Stop (e.g., Mail Stop Petition), if applicable. *For transmittal of processing fees under 37 CFR 1.17(i), see form PTO/SB/17i.*

Payment of Fees (small entity amounts are NOT available for the petition fees).

[X] The Commissioner is hereby authorized to charge the following fees to Deposit Account No. ____03-1952____ :

    [X] Petition fee under 37 CFR 1.17(f), (g) or (h) [X] Any deficiency of fees and credit of any overpayments

    Enclose a duplicative copy of this form for fee processing.

[ ] Check in the amount of $ _____ is enclosed.

[ ] Payment by credit card (Form PTO-2038 or equivalent enclosed). Do not provide credit card information on this form.

Petition Fees under 37 CFR 1.17(f): Fee $400   Fee Code 1462

For petitions filed under:
§ 1.53(e) – to accord a filing date.
§ 1.57(a) – to accord a filing date.
§ 1.182 – for decision on a question not specifically provided for.
§ 1.183 – to suspend the rules.
§ 1.378(e) – for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent.
§ 1.741(b) – to accord a filing date to an application under § 1.740 for extension of a patent term.

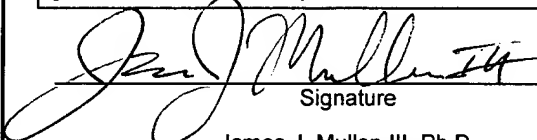**Petition Fees under 37 CFR 1.17(g): Fee $200   Fee Code 1463**

For petitions filed under:
§ 1.12 – for access to an assignment record.
§ 1.14 – for access to an application.
§ 1.47 – for filing by other than all the inventors or a person not the inventor.
§ 1.59 – for expungement of information.
§ 1.103(a) – to suspend action in an application.
§ 1.136(b) – for review of a request for extension of time when the provisions of section 1.136(a) are not available.
§ 1.295 – for review of refusal to publish a statutory invention registration.
§ 1.296 – to withdraw a request for publication of a statutory invention registration filed on or after the date the notice of intent to publish issued.
§ 1.377 – for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.
§ 1.550(c) – for patent owner requests for extension of time in ex parte reexamination proceedings.
§ 1.956 – for patent owner requests for extension of time in inter partes reexamination proceedings.
§ 5.12 – for expedited handling of a foreign filing license.
§ 5.15 – for changing the scope of a license.
§ 5.25 – for retroactive license.

Petition Fees under 37 CFR 1.17(h): Fee $130   Fee Code 1464

For petitions filed under:
§ 1.19(g) – to request documents in a form other than that provided in this part.
§ 1.84 – for accepting color drawings or photographs.
§ 1.91 – for entry of a model or exhibit.
§ 1.102(d) – to make an application special.
§ 1.138(c) – to expressly abandon an application to avoid publication.
§ 1.313 – to withdraw an application from issue.
§ 1.314 – to defer issuance of a patent.

Signature	Date
[signature]	March 17, 2005
James J. Mullen III, Ph.D.	44,957
Typed or printed name	Registration No., if applicable